

GUILFORD COUNTY

NORTH CAROLINA

SETTLEMENT AGREEMENT AND GLOBAL RELEASE

This SETTLEMENT AGREEMENT and GLOBAL RELEASE ("Agreement") is made and entered into this 20th day of ~~June~~ July, 2016, by and between James A. Clark ("Clark"), and the City of Greensboro, a North Carolina municipal corporation ("City").

WITNESSETH

WHEREAS, Clark's last day of employment as an Assistant City Attorney assigned to provide legal counsel to the Greensboro Police Department will end on August 1, 2016;

WHEREAS, Clark has asserted various legal claims concerning his employment with the City;

WHEREAS, the City disputes Clark's claims;

WHEREAS, Clark, in consideration of being paid for three (3) months as an employee of the Legal Department with all employee benefits and privileges through October 31, 2016, does hereby acknowledge and covenant not to sue and hereby release and forever discharge for myself, my heirs, next of kin, personal representatives and assigns, the City of Greensboro, its agents and employees of and from any, every and all, and all manner of actions, cause and causes of action, damages, loss of service, back wages, injunctive relief and demands of whatsoever kind and nature against the City of Greensboro I ever had or now have, for, by reason of or growing out of any manner or thing done, omitted or suffered to be done by the said City of Greensboro, its agents and employees prior to and including the date of the execution of this Agreement and General Release.

WHEREAS, the City, its officials, managers, employees and agents hereby released, admit absolutely no liability of any sort and have made no representations as to liability;

NOW, THEREFORE, in consideration of the mutual covenants contained herein by and between the parties hereto, it is hereby mutually agreed as follows:

1. Severance

The City shall pay to Clark severance payments totaling \$22,734.24. This figure represents three months of Clark's annual salary of \$90,937. The severance payment will be paid at semi-monthly intervals with the same standard legal deductions from his paychecks as

active employees of the City. Severance payments will begin August 1, 2016 and end on October 31, 2016.

2. Benefits

The City shall continue to provide the same insurance and other benefits to Clark from August 1, 2016 through October 30, 2016. In addition the City will allow Clark to keep his City issued cell phone and turn it in no later than October 30, 2016. These benefits will be provided to Clark under the same terms and conditions as they were provided to him as an employee of the City. Clark acknowledges and agrees that his share of these premiums will be deducted from the severance payment referenced in paragraph 1 above.

3. Unemployment Insurance Benefits

The City agrees to not contest Clark's claim for unemployment insurance benefits.

4. Representation in Pending Litigation

The City will continue to defend Clark in the Jasmine D. Bowers v. James Anthony Clark and City of Greensboro case, File Number 16 CVD 6635, and the Wesley Faust-Graham Goodwin v. James Clark et al, case, File Number 16 CVS 6052. The City will pay any settlement or judgment as a result of the lawsuit against Clark in accordance with the law.

5. Cooperation

Clark agrees to make himself available at reasonable times and places for consultations during which he will provide to the City, or its designated attorneys or agents, any and all information known to him regarding or relating to the City of his activities on behalf of the City in regard to the subject matter on which his cooperation is sought, as well as provide any and all documents or electronically stored information available to him relating to such subjects. These reasonable times and places for consultation shall be determined by mutual agreement between the City and Clark.

6. Release

Upon the expiration of the revocation period of this Agreement, Clark, for himself, his heirs, representatives, successors and assigns, does hereby irrevocably and unconditionally release, acquit and forever discharge: (i) the City, its predecessors and successors, and (ii) its current and former supervisors, managers, attorneys, agents, council members, mayor and members of any affiliated boards and commissions (the "Released Parties"), from any and all claims, demands, causes of action, suits and liabilities that he may have against the Released Parties, whether collectively or individually, to and including the Effective Date of this Agreement, including without limitation claims arising from, out of or otherwise relating to his employment and the termination of his employment on July 16, 2016, including without limitation lost wages or salary, future lost wages or salary, lost benefits, future lost benefits, embarrassment, emotional stress, personal injury, medical claims or other mental or physical injuries which arise out of any conduct by the Released Parties prior to the Effective Date of this Release. This release includes any and all claims, demands, grievances, causes of action, suits and liabilities of every kind, character and description whatsoever, both legal and equitable, under federal, state or local government statutes or ordinances, or under common law, whether known or unknown, including without limitation claims for compensatory damages, liquidated

damages, statutory damages, punitive damages, back pay, front pay, promotion, reinstatement, attorney's fees and costs. This release specifically includes without limitation claims that might be brought under Title VII of the Civil Rights Act of 1964, as amended, the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Americans with Disabilities Act of 1990, as amended ("ADA"); the Age Discrimination in Employment Act, as amended (the "ADEA"), the Family and Medical Leave Act, as amended ("FMLA"), the Genetic Information Nondiscrimination Act of 2008, as amended ("GINA") the Fair Labor Standards Act, as amended ("FLSA"), the North Carolina Equal Employment Practices Act, N.C. Gen. Stat. § 168A-1, et seq., as amended, the North Carolina Retaliatory Employment Discrimination Act, N.C. Gen. Stat. § 95-240, et seq., as amended ("REDA"), and the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1, et seq., as amended. As to a claim or potential claims under ADEA, this release applies only to existing rights, claims or potential claims, and does not apply to any rights, claims or potential claims of Clark that arise after the signing of this Agreement.

**7. Inquiries from Prospective Employers**

In response to inquiries from prospective employers, the City will provide only that information required by law to be disclosed.

**8. Non-disparagement**

The City, through its City Manager, and Clark agree that neither party will make any disparaging, derogatory, or negative comments about the other.

**9. Admission**

Clark acknowledges the settlement reflected in this Agreement is a compromise of a doubtful and disputed claim, and that the payment is not to be construed as an admission of liability on the part of the Released Parties, by whom liability is expressly denied.

**10. Governing Law & Venue**

Clark agrees that this Agreement shall be interpreted and the rights and liabilities of the parties will be determined in accordance with the substantive laws of the State of North Carolina. Clark consents to the jurisdiction of any dispute, claim, suit or other legal action arising out of this Agreement shall only be commenced and prosecuted in the North Carolina Superior Court or the United States District Court sitting in Guilford County, North Carolina.

**11. Severability**

Should any part of this Agreement be declared illegal, invalid or unenforceable, all remaining sections remain in full force.

**12. Interpretation**

Clark and the Released Parties agree that any rule of construction that interprets the terms of this Release against or in favor of one party as the drafter shall not apply. Captions are intended solely for convenience of reference, and shall not be used in the interpretation of this Release.

**13. Time for Consideration & Revocation**

Clark specifically acknowledges that this Agreement advises him to consult with an attorney before he signs this Agreement, and Clark acknowledges that he has had the opportunity to consult with counsel of his selection regarding his rights and obligations under this Agreement. Clark further specifically acknowledges and represents that by signing this Agreement, he knowingly and voluntarily waives any and all rights and claims under the Age Discrimination in Employment Act, as amended ("the ADEA") (29U.S.C, Chapter 14, §621, et seq.), arising from his employment with the City of Greensboro through the date of his signature on this Agreement becomes effective.

Clark acknowledges that he first received this Agreement on June 21, 2016, and that to receive the severance payment and benefits described herein, he must sign, return, and not revoke this Agreement as described below.

Clark acknowledges that he has been offered the opportunity to consider the terms of this Agreement and to consult with an attorney of his choice, before signing and returning it, for a period of at least twenty-one (21) calendar days from his receipt of the Agreement. Clark understands that it is fully his decision whether he chooses to sign the Agreement before the 21-day period ends. Clark agrees that any changes to the Agreement that may be negotiated between himself and his attorney and the City, whether material or immaterial, will not restart the time he has to consider and sign the Agreement. Clark understands that he may sign and return the Agreement at any time before the expiration of the 21-day period. Clark further understands that he can revoke his acceptance of the Agreement, in writing, for a period of seven (7) calendar days after he signs the Agreement. Upon the expiration of the revocation period, Clark's waiver of claims and rights under the ADEA will become effective and enforceable.

The signed Agreement and , if applicable, written revocation should be returned within the time periods described above to Tom Carruthers, City Attorney, P.O. Box 3136, Greensboro, NC 27402-3136. Clark acknowledges that, if he revokes this Agreement, he will not be entitled to receive any consideration called for under the terms of this Agreement.

14. Merger

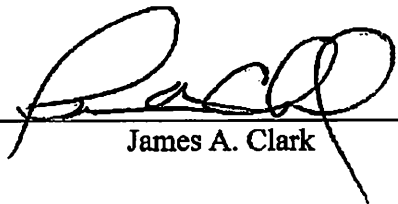
This Agreement contains the entire Agreement between the parties hereto, and the terms of this Agreement are contractual and not mere recitals.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF GREENSBORO

  
City Manager

EMPLOYEE

  
James A. Clark

ATTEST:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act".

R. J. Funk 7-20-2016

Finance Director

APPROVED AS TO FORM:

City Attorney

